

REMARKS

The claims are 1-9. Claims 1, 5 and 6 have been amended to better define the invention. Claims 10-24 have been cancelled without prejudice or disclaimer in view of an Examiner's restriction requirement. Favorable consideration of the presently claimed invention is respectfully requested.

Claims 1-9 were rejected under 35 U.S.C. §112, second paragraph. First, the Examiner asserts that it is unclear if 1, 2-propanediol is itself a monomeric polyhydroxy compound. Applicant has amended claim to recite that the polyhydroxy compound is a carbohydrate included in the mixture of (i), (ii), (iii) and (iv), i.e., it is in addition to 1,2-propanediol. Support for this change can be found at page 4, lines 17-20 in the specification. It is also noted that claims 3 and 4 clearly should not have been included in this rejection since a carbohydrate having 6 carbon atoms cannot be 1,2-propanediol. Accordingly, it is respectfully submitted that this aspect of the Examiner's 35 U.S.C. §112 rejection has been overcome.

The Examiner also objected to claims 5 and 6 for lacking a "frame of reference" for the percent limitation. Applicant thanks the Examiner for his helpful suggestions which have been adopted in the present amendment. Accordingly, Applicant respectfully submits that the present claims meet all the requirements of 35 U.S.C. §112.

Claims 1-3 and 5-9 were rejected as allegedly obvious under 35 U.S.C. §103 over U.S. Patent No. 4,946,669 (Siegfried) in view of U.S. Patent No. 5,508,175 (Slifkin). Claim 4 was rejected as allegedly obvious over Siegfried in view of U.S. Patent No. 5,338,558 (Aung). Applicants respectfully traverse these rejections in view of the following remarks.

The presently claimed invention requires that the fixative composition is a combination of ethanol, water, 1-2 propanediol, polyvinyl alcohol and a monomeric polyhydroxy compound that is a carbohydrate. As noted in the specification at page 4, lines 17-23, it has been discovered that when a monomeric polyhydroxy carbohydrate compound is included with the first four components listed above, a highly effective fixative is obtained. It is respectfully submitted that the art would not have suggested the claimed fixative composition or the advantages associate therewith.

Siegfried suggests a fixative composition that may contain ethanol, propylene glycol, formic or acetic acid and an osmotic agent such as glucose and water. The Examiner recognizes that polyvinyl alcohol is not described. To cure this deficiency, the Examiner relies on the disclosure of Slifkin which states at col. 2, lines 3-5 that polyvinyl alcohol is well known as an adhesive used in fixatives.

It is respectfully submitted that the advantages of the present invention would not have been rendered obvious in view of Siegfried and Slifkin. In Slifkin, polyvinyl alcohol is not used as a fixative in the histological sense, but as an adhesive for temporary or permanent mounting of fresh specimens for parasitology. In the present invention the polyvinyl alcohol when present in combination with the other claim recited components acts to preserve cellular architecture, stabilize the intracellular structure in order to avoid the washing effect of a pure alcohol fixation and preserve the background substance of the tissues. It has also been found that the addition of polyvinyl alcohol to the other components of the present invention results in an overall morphologic appearance of tissue that is quite different than a composition that does not contain polyvinyl alcohol. As noted in the specification, the fixative of the present invention is highly effective for

histological purposes, i.e., the study of cell structure, and cytological purpose, i.e., the study of the formation, structure and function of cells. See specification at page 4, lines 17-20.

To the contrary, Slifkin is directed to a fixative stain system for the microscopic identification of protozoa and other parasites. Col. 3, lines 16-18. In fact, the primary specimen studied with the fixative of Slifkin is feces. Col. 4, lines 15-18. Therefore, it is respectfully submitted that one of ordinary skill in the art could not have looked to the parasitic fixative of Slifkin to modify the histological fixative of Siegfried. Accordingly, it is respectfully submitted that claims 1-3 and 5-9 would not have been obvious in view of Siegfried and Slifkin.

With respect to the Examiner's rejection of claim 4 over Siegfried in view of Aung, it is not seen how this combination discloses the claimed invention. Neither reference disclose polyvinyl alcohol. Moreover, Aung is not even remotely directed to fixatives, but instead is directed to partially-dehydrated aromatic herbs. It is respectfully submitted that a person skilled in the art would have not looked to the disclosure of Aung to modify the histological fixative of Siegfried.

Wherefore, it is respectfully submitted that the art of record, either taken alone or together does not disclose or suggest the presently claimed invention. Therefore, it is respectfully requested that the claims be allowed and the case passed to issue.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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